

**REGULATION INTERPRETATIONS
AND
PROCEDURES
FOR
SOCIAL REHABILITATION FACILITIES**

SOCIAL REHABILITATION FACILITIES TABLE OF CONTENTS

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Article 1. GENERAL DEFINITIONS**81000 GENERAL****81000****POLICY**

The Chapter 2 Social Rehabilitation Facility regulations apply only to Social Rehabilitation Facilities. To ensure that regulations are properly enforced, corresponding sections in the facility-specific regulations should be reviewed.

81001 DEFINITIONS**81001****(b)(1) Basic rate****POLICY**

The admission agreement shall specify the services to be provided and the rate for such services.

For Supplementary Security Income/State Supplementary Payment recipients, licensees shall provide all basic services at the government prescribed rate. In addition to funds paid by Supplementary Security Income/State Supplementary Payment, residents of community care facilities may also have \$20 per month of income which is exempt for purposes of allowance computation. Thus, a resident may have personal and incidental monies plus \$20 exempt income. The exempt income may be used to pay an additional charge for basic services provided. The additional charge for basic services provided is indicated in an admission agreement. Pursuant to the Welfare and Institutions Code Section 11006.9, it is grounds for revocation of a licensee to obtain as an additional cost for care, aid allocated to a recipient for his/her personal and incidental needs.

For private pay residents (residents who do not receive Supplementary Security Income/State Supplementary Payment), the rate should be negotiated at the time of admission, and documented in writing in an admission agreement. However, a facility may charge whatever rate it chooses for services provided to each individual private pay client. All services to be provided and the total cost for providing those services are specified in an admission agreement. Furthermore, the rate charged must be for provision of all services required by the client. In many cases, an individual will not require a number of the elements of care and supervision specified in California Code of Regulations, Title 22, Section 81001(c)(3). In these cases the rate for care established by the client may reflect only the cost of services to be provided.

If this rate does not cover all the basic services a community care facility is required to provide, or all the services offered by the specific facility, but not currently required by the client, then there should be a clear explanation in the admission agreement as to what changes or increases in the rate will occur if these services become required or desired by the client. A care provider is not prohibited from raising his/her rate for any services to private pay clients at any time, as long as the 30-day notice is given as required by California Code of Regulations, Title 22, Section 81068(c)(4), (e), (f) and (g). In no event shall a care provider charge a higher rate than agreed to in advance by a client.

81001 DEFINITIONS (Continued)**81001****(b)(1) Basic rate PROCEDURE**

Refer to Regulation Interpretations and Procedures for Social Rehabilitation Facilities Section 81026(f), 81068, and 81001(b)(1).

(c)(3) Care and supervision POLICY

Facilities which provide care and supervision are required to be licensed. These care and supervision activities include all basic services which must be provided in order to obtain and maintain a license.

(e)(7) Exception PROCEDURE

See Reference Material, Office Functions, Section 2-5000 and Regulation Interpretations and Procedures for Social Rehabilitation Facilities Section 81024.

(e)(8) Exemption POLICY

Exemptions can be obtained on an individual basis under certain circumstances. However, the law does not allow transferring of exemptions between statutory acts.

PROCEDURE

Refer to Regulation Interpretations and Procedures for Social Rehabilitation Facilities Section 81019.

(g)(1) Guardian POLICY

A guardian is also identified as a person who is exempt from licensure.

(i)(1) Inhalation-assistive device POLICY

Inhalation-assistive devices do not include metered-dose aerosols and dry-powder inhalers. Due to public comment, metered-dose aerosols and dry-powder inhalers were removed from this definition during the October 1998 regulation package (ORD# 0696-27). Refer to California Code of Regulations, Title 22, Section 81075 regarding facility staff assisting clients with metered-dose inhalers and dry powder inhalers.

(n)(2) Nonambulatory person POLICY

A deaf person who could respond to a visual signal may be ambulatory. However, when coupled with other factors such as dependence upon a mechanical aid, the person would be considered nonambulatory.

In summary, a nonambulatory person is defined as one who is unable to leave a building unassisted under emergency conditions. This would include:

1. Any person who is unable, or likely to be unable, to physically respond or mentally respond to a sensory signal approved by the State Fire Marshal, or an oral instruction relating to fire danger;

81001 DEFINITIONS (Continued)**81001****(n)(2) Nonambulatory person POLICY (Continued)**

2. Any person who depends upon a mechanical aid such as crutches, walkers, and wheelchairs.

Policy regarding total care need and bedridden clients is as follows:

A total care need client is one who is totally dependent on others to perform for them all activities of daily living including feeding, dressing, diapering etc.

A bedridden person is defined in Uniform Building Code Section 403 as “a person confined to a bed, requiring assistance in turning or unable to independently transfer to and from bed, and unable to leave a building unassisted during emergency conditions.”

Total care need and bedridden clients shall be allowed in community care facilities so long as the client does not require more than incidental medical care and the following conditions are met:

1. The licensee has obtained the appropriate bedridden or non-ambulatory fire clearance.
2. The licensee has a needs and services plan or Individual Program Plan, which specifies the services to be provided to ensure appropriate care for the client’s bedridden or total care condition.

(See Regulation Interpretations and Procedures for Social Rehabilitation Facilities Sections 81010 and 81020.)

PROCEDURE

See Regulation Interpretations and Procedures for Social Rehabilitation Facilities Sections 81010 and 81020.

(s)(7) Substantial compliance PROCEDURE

See Regulation Interpretations and Procedures for Social Rehabilitation Facilities Section 81051.

(u)(3) Urgent need PROCEDURE

Refer to Regulation Interpretations and Procedures for Social Rehabilitation Facilities Section 81030.

(w)(1) Waiver PROCEDURE

Refer to Regulation Interpretations and Procedures for Social Rehabilitation Facilities Section 81024 and Reference Material, Office Functions, Sections 2-5000 through 2-5700.

ARTICLE 2. LICENSE

81006 OPERATION WITHOUT A LICENSE

81006

(a) POLICY

When an unlicensed facility is in operation, the facility may file an application. However, continued operation pending licensure is a violation of the law.

PROCEDURE

For further clarification, refer to Regulation Interpretations and Procedures for Social Rehabilitation Facilities Section 81006(b) and (c).

(b) POLICY

If information is received regarding the operation of an unlicensed facility, it shall be treated and given priority as a complaint. For more information on complaint investigations and unlicensed facilities, refer to Reference Material, Enforcement Actions, Sections 1-0600 through 1-0650 and Reference Material, Complaints, Sections 3-2010, 3-2110 and 3-2240.

An inspection shall be conducted to determine if the facility needs to be licensed.

The Licensing Program Analyst should contact his/her Licensing Program Manager if (1) reasonable attempts have been made to gain access, and (2) there is a basis to support the belief that care and supervision are being provided (e.g., interviews with neighbors support belief). If the evaluator cannot gain entry into the facility in order to conduct this inspection, contact the Regional Investigation Section.

In order to determine if a license is necessary, the review tool may be used during the site inspection to assess what the operator has agreed to provide in the living arrangement. There may be instances where sufficient evidence exists to substantiate an unlicensed operation complaint against the operator without the use of this review tool or with partial completion of the review tool. Information used to determine the scores used in the review tool can come from several sources including, but not limited to:

1. Observations and interviews with individuals residing at the location;
2. Interviews with the operator;
3. Information received from other sources such as hospice agency, home health agency, discharge planner, placement agency, social worker or the local ombudsman office.

The Regional Office consulting enforcement attorney should be assisting every step of the way with these fact intensive decisions, and in all situations, the Regional Manager and/or Licensing Program Manager must be consulted before making a decision.

81006 OPERATION WITHOUT A LICENSE (Continued)**81006****(b) POLICY (Continued)**

Upon final review of the data collected, if it is determined that care and supervision is provided and meets administrative or evidentiary standard, the issuance of a citation for “unlicensed operation” followed by issuance of a Notice of Operation in Violation of Law (LIC 195) will occur.

(b) PROCEDURE

If care and supervision are not being provided and it does not appear that any is needed, notify the operator using the Complaint Investigation Report (LIC 9099) and notify the complainant(s), if applicable, using the Complaint Response (LIC 856) by phone or in person. A copy of the Complaint Response (LIC 856) notice shall be placed in the facility confidential files.

If care and supervision are not being provided, yet it appears that individual(s) need such, notify the same individuals specified above plus any known responsible parties, including relatives, guardians or placement agencies, as applicable.

When notifying responsible persons or agencies, mail notices no later than one working day after the inspection has been conducted.

If there are any immediate health and safety risks (e.g., abuse, neglect, or exploitation, serious physical plant deficiencies, etc.) telephone Adult Protective Services and/or the Long-Term Care Ombudsman so that immediate action to investigate and take necessary protective action, including necessary relocation of clients, can be initiated. Follow up such notification in writing. For more information regarding facility closures, see Reference Material, Enforcement Actions, Sections 1-0010 and 1-1190.

Discuss with your supervisor the need to refer any cases to the Investigations Branch.

(c) POLICY

In-home supportive services arrangements often appear to fall under the jurisdiction of the Community Care Licensing Division, particularly congregate living arrangements for the elderly and/or persons with disabilities wherein the provider – who sometimes lives in the home – provides in-home supportive services entailing care and supervision. Not all congregate living arrangements require licensure, however. If all residents receiving care and supervision in a living arrangement receive care through the In-Home Supportive Services Program either through the same or different providers, licensure is not required. All other living arrangements where care and supervision is provided will need to be assessed on a case-by-case basis. This includes living arrangements where some residents receive care and supervision through the In-Home Supportive Services Program and some residents receive care and supervision through another provider relationship.

The Notice of Operation in Violation of Law (LIC 195) shall be issued when a facility is discovered operating without a license.

The Notice of Operation in Violation of Law (LIC 195) shall be issued omitting the last paragraph, when a facility is discovered operating under the following circumstances:

81006 OPERATION WITHOUT A LICENSE (Continued)**81006****(b) POLICY (Continued)**

1. When an application has been filed, but a license has not yet been approved.
2. When an initial application for a new license has been denied (regardless of whether or not such denial is appealed by the applicant).

When the Regional Office has been previously informed that a facility is operating without a license, take the Notice of Operation in Violation of Law (LIC 195) signed by the Regional Manager to the inspection. If it is determined during the inspection that the facility is providing care and supervision and is operating unlicensed, issue the Notice of Operation in Violation of Law (LIC 195). If the Regional Office has not been previously informed, the notice shall be mailed (certified mail return requested) or hand-delivered to the operator by not later than the following workday. If you are not returning to your office the day of the inspection, call your office and make arrangements for the notice to be mailed within the specified time frame.

If the operator has taken no immediate action and an application has not been filed, make a follow-up inspection within 30 days of the initial inspection. The purpose of this inspection is to determine whether the facility is continuing to provide care and supervision. If such is the case, consult with your supervisor to consider referral to the Investigations Branch for appropriate enforcement action. For more information on the Investigations Branch, refer to Reference Material, Enforcement Actions, Sections 1-0600 through 1-0650.

81007 EXEMPTION FROM LICENSURE**81007**

- (a) See Regulation Interpretations and Procedures for Social Rehabilitation Facilities Section 81018(d)(5) regarding eating disorders clinics.

(a)(3) POLICY

Facilities determined by the Community Care Licensing Division to be providing nonmedical care and supervision are not exempt from licensure under Health and Safety Code Section 1505(f). These facilities shall be subject to licensure as a community care facility. This statute does exempt church conducted facilities that adhere to a dependence on prayer or spiritual means for healing. However, this exemption is limited to those facilities that substitute prayer for medical/nursing services which would otherwise be provided for or required by residents in a health facility such as a nursing home or hospital as defined in Sections 1200 or 1250 of the Health and Safety Code.

For cases in which a facility is claiming an exemption from licensure the Community Care Licensing Division will determine if granting the exemption is valid. In order to make this determination, the staff of the Community Care Licensing Division Regional Office will:

1. Inspect the facility to evaluate the type and extent of care and supervision being provided to persons residing in the facility in question.

81007 EXEMPTION FROM LICENSURE (Continued)**81007****(a)(3)****POLICY (Continued)**

2. Contact the appropriate Department of Public Health licensing agency when it appears that medical care is required (though not provided) and ask them to determine if the facility is exempt from licensure as a health facility as defined by the Health and Safety Code. In cooperation with Department of Public Health, the Community Care Licensing Division staff may arrange joint **inspection** with Department of Public Health licensing staff to evaluate the facility.
3. Advise the facility operator(s)/administrator(s) that they are required to have a license as a community care facility when it is determined that care and supervision is needed and being provided and/or medical care is not needed and not being provided. Give the operator(s) and/or administrator(s) an opportunity to file an application.
4. For those facilities subject to licensure, the following guidelines will be used in granting waivers/exceptions for those licensing requirements which conflict with the beliefs and practices of the particular religion:
 - a. If the facility is maintained by and for the followers of a church or religious denomination who relies upon prayer or spiritual means for healing, the licensing agency shall not require medical assessments, examinations, tests, health histories or medical supervision of the employees or residents in the facility, provided employment and admission for care is limited to those individuals.
 - b. An exception for medical assessments, examinations, tests, health histories, or medical supervision may be granted to a facility that admits adults **who** rely solely upon prayer or other spiritual means for healing. Individuals, however, must present satisfactory evidence that they do not have a communicable disease. Satisfactory evidence shall be a physician's written statement.
5. If a facility is maintained by and for the followers of a particular faith or religion, such preference may be stated on the license.

(a)(4)**POLICY**

A homeless shelter is exempt from licensure as a community care facility. To qualify for exemption, the facility is prohibited from providing care and supervision, administering or dispensing prescription medications to homeless persons, or allowing a homeless person to reside permanently in the shelter.

Homeless shelters may provide certain acceptable services. These include temporary shelter, food/meals, clothing, transportation, personal grooming supplies, bathing facilities, laundry facilities, housing search assistance, job search assistance, advocacy, and counseling. These permitted services may appear to cross over with care and supervision requiring licensure; however, a homeless shelter that provides these services shall not be construed as providing elements of care and supervision and is exempt from licensure.

81007 EXEMPTION FROM LICENSURE (Continued)**81007****(a)(4) POLICY (Continued)**

Due to the nature of the program, individuals who come to a homeless shelter may need care and supervision. If an evaluation by shelter staff indicates that a client is in need of care and supervision, the client will be referred for appropriate placement.

PROCEDURE

If a Licensing Program Analyst receives a complaint regarding a homeless shelter operating as an unlicensed facility, the Licensing Program Analyst must immediately discuss the complaint with his/her Licensing Program Manager to assess whether an unlicensed operation of a facility is occurring. In addition, the Licensing Program Analyst and Licensing Program Manager should consult with the enforcement attorney if necessary to obtain assistance interpreting requested documents provided by the operator. This determination will be made on a case-by-case basis. As part of the unlicensed operations complaint investigation, consideration should be made to the documentation provided by the operator demonstrating the status as a homeless shelter. This documentation may include, but not be limited to, a business license or other required permits, if required by local ordinances to operate as a homeless shelter, or contracts with local governments to operate a homeless shelter. Local ordinances may have set requirements that must be met in order to operate a homeless shelter (e.g., permits, zoning requirements, maximum number of beds, and business licenses). Senate Bill 2 (Statutes of 2007) required local governments to identify a zone that can accommodate at least one year-round emergency shelter and sets parameters regarding local requirements such as permits and zoning requirements. Emergency shelters would be an example of a homeless shelter that would be exempt from licensure from the Department of Social Services. The Licensing Program Analyst must obtain the Licensing Program Manager's approval prior to issuing findings that a homeless shelter is operating as an unlicensed facility.

(a)(11) POLICY

1. Facilities on federal property or on Indian Reservations:
Facilities on federal government property or on Indian Reservations are exempt from licensing.

PROCEDURE

1. Process a licensing application, if the land manager (e.g., military base commander or the Indian Tribal Council) agrees to cooperate with all licensing procedures. Use the appropriate following standard form to record the agreement:
Agreement for licensure of community care facility/child day care facility on Federal Property (LIC 996)
Agreement for Licensure of community care facility/child day care facility on an Indian Reservation (LIC 996A)

81007 EXEMPTION FROM LICENSURE (Continued)**81007****(a)(11) PROCEDURE (Continued)**

In addition, the licensing agency should obtain a written agreement from the applicant to ensure that all parties understand the licensing conditions. Use the appropriate following standard form to record the agreement with the applicant:

Agreement by Licensee/Applicant on Federal Property (LIC 997)

Agreement by Licensee/Applicant on an Indian Reservation (LIC 997A)

A licensing agency manager should sign the agreement used.

If an agreement is with an Indian Tribal Council, the licensing agency must notify the Bureau of Indian Affairs. Send a copy of the completed agreement to the following address:

U.S. Department of Interior
Sacramento Area
Bureau of Indian Affairs
2800 Cottage Way
Sacramento, CA 95825
Attention: Area Director

81008 LICENSING OF INTEGRAL FACILITIES**81008****(a)(3) POLICY**

“Single site” means at one location, or on the same premises. In other words, a facility may be comprised of multiple buildings, and may be under one license, as long as the buildings are physically located on the same premises (adjoining lots); are managed by the same licensee; are components of a single program; and have a common address. (For purposes of determining if the facility is a single site, consult the county tax records at the county assessor’s office to ascertain if the property on which the buildings are located is under a single parcel number or on adjoining lots.)

ARTICLE 3. APPLICATION PROCEDURE

81019 CRIMINAL RECORD CLEARANCE

81019

(a)

Registered nurses, licensed vocational nurses, podiatrists, physical and occupational therapists, and other medical professionals who inspect facilities and only provide services within their scope of practice do not need background checks. However, if the medical professional is a licensee or employee of a community care facility, or provides assistance to clients with dressing, grooming, bathing, or personal hygiene or provides care and supervision of clients, then background checks must be completed for that individual.

(b)

A nurse assistant or home health aide who has been certified or recertified by the State Department of Public Health on or after July 1, 1998, is deemed to meet the criminal background clearance requirements for community care licensing, as long as the home health aide or nurse assistant is not employed, retained, or contracted by the licensee. When the nurse assistant or home health aide is providing care as an employee of a home health agency, they must provide the facility with a copy of their current Department of Public Health certification card and the licensee shall keep a copy of the card in file for review by the Department. If a home health agency sends a person without a Department of Public Health certification to the facility to work, that person must meet the community care licensing fingerprint requirements.

A certified nurse assistant or home health aide is only qualified by that certificate to work for a facility licensed by the Department of Public Health, such as a hospital, skilled nursing facility or home health agency. If this person is contracted for, employed, or retained by a community care facility licensee, while working for the community care facility licensee they are not considered to be a nurse assistant or home health aide, and must meet community care licensing fingerprint requirements.

81021 WATER SUPPLY CLEARANCE**81021****(a)(2) POLICY**

Sanitation clearance inspections are requested only as required by this regulation or if sanitation conditions exist which could adversely affect the clients' health and safety. For example, if a facility is located in an area where chemical contamination is a concern, an analysis may be requested based on **Health and Safety Code Section 1501(b)(5)**.

PROCEDURE

Discuss the need for a sanitation inspection with your supervisor, as this requires payment of a fee by the applicant/licensee. Coordinate inspections with the local sanitation department.

81022 PLAN OF OPERATION**81022****(b)(5) PROCEDURE**

Refer to **Regulation Interpretations and Procedures for Social Rehabilitation Facilities** Sections **81064** and **81065**.

(b)(8) POLICY

Licensees shall not be required to submit blueprints or plans drawn to scale.

PROCEDURE

Review plans to ensure compliance with **Regulation Interpretations and Procedures for Social Rehabilitation Facilities** Sections **81010** and **81087**.

(b)(14)

The Admission Agreement Guide **for Residential Facilities (LIC 604)** has a section for **the facility's** visiting policy. For licensed facilities, the Plan of **O**peration should be updated at **the time of** renewal or in response to a complaint about **the facility's** visiting policy.

(i)

Upon receipt of the **P**lan of **O**peration, review applicable regulations to ensure that each part of the plan is in compliance. For example, to determine if an applicant's admission agreement is adequate, review **Regulation Interpretations and Procedures for Social Rehabilitation Facilities** Section **81068**.

81023 DISASTER AND MASS CASUALTY PLAN**81023****(b)(2) POLICY**

It is recommended that the plan also include utility shut off locations, the location of first aid supplies and be posted by the telephone in the facility.

NOTE: The Emergency Disaster Plan for Adult Day Programs, Adult Residential Facilities, Residential Care Facilities for the Chronically Ill, and Social Rehabilitation Facilities (LIC 610D) meets this regulation.

PROCEDURE

Review the facility plan to ensure that it is complete, accurate and updated as necessary to reflect any changes in the facility or community.

(d) POLICY

Disaster drills should ensure that clients know exit routes. It is recommended that a diagram of the facility clearly indicating exit routes be posted on all floors of the facility.

In conducting disaster drills, exiting the building according to a plan is necessary, but relocation of clients would only occur in an actual disaster.

81024 WAIVERS AND EXCEPTIONS**81024****(b)(3) POLICY**

A **waiver** may be granted when an applicant/licensee requests a variance to a specific regulation that relates to the overall operation of the facility.

An **exception** may be granted when an applicant/licensee requests a variance to a specific regulation on behalf of an individual(s) (e.g., a client or employee).

An **approval** shall describe the alternate plan and specify the condition(s) under which the request is granted, including its duration. The duration of waivers/exceptions shall be for the term of the license or for a shorter period at the request of the applicant/licensee or as deemed necessary by the licensing agency to ensure adequate and safe provision of service.

The basis for denial shall be fully explained.

PROCEDURE

For more information on waivers and exceptions, see Regulation Interpretations and Procedures for Social Rehabilitation Facilities Section 81001(e)(7), (e)(8) and (w)(1) and Reference Material, Office Functions, Sections 2-5000 through 2-5700.

81025 BONDING**81025****(a) POLICY**

If a client gives their Supplementary Security Income/State Supplementary Paycheck to the licensee, and at the same time, the licensee gives the client the equivalent amount of their personal and incidental allowance, the licensee is not safeguarding the client's cash resources. In this situation the licensee is not required to obtain a bond. However, if the licensee removes the client's Supplementary Security Income/State Supplementary Payment check from the facility and then gives the client his/her personal and incidental allowance, the licensee is safeguarding the client's cash resources. In this situation the licensee is required to obtain a surety bond.

No form of financial guarantee or instrument, other than a surety bond, is acceptable.

(b) POLICY

If a licensee operates more than one separately licensed facility, there must be separate coverage for each facility. Bonds that insure the licensee/employees of two or more facilities are permissible provided the bond specifies the following:

1. The name, address and facility number of each facility covered;
- and**
2. The amount of bond coverage designated for each facility.

Documentation of the above shall be in the form of an attachment provided by the surety company. This should be attached to the Surety Bond (LIC 402). The attachment shall be signed by the licensee, the surety company representative, and impressed with the surety company's seal.

A "surety company" is defined as a company that is contracted to be responsible for another entity, especially a company or agency which assumes any responsibilities, debts, or obligations in the event of the default of another entity.

In order to be allowed to do business in the State of California, the surety company must obtain an organization permit and a certificate of authority from the State Department of Insurance, Office of the Commission.

The bond shall cover the licensee and all facility staff against employee dishonesty in the handling of cash resources of clients within the facility. This is commonly called a "fidelity" bond or "employee dishonesty coverage" bond.

Time certificates or other interest accumulating certificates issued by a bank are not bonds.

81025 BONDING (Continued)**81025****PROCEDURE**

If the validity of a surety bond is in question, the Licensing Program Analyst may require the licensee to present documentation of the organization Permit and Certificate of Authority from the surety company.

(f)

PROCEDURE

The Licensing Program Analyst should review the Affidavit Regarding Client/Resident Cash Resources (LIC 400), to determine if the facility does or does not handle cash resources as defined in California Code of Regulations, Title 22, Section 81026(b). If client money will be handled, assure that a current Surety Bond (LIC 402) is on file, is in an appropriate amount as required in California Code of Regulations, Title 22, Section 81025(c), and is properly signed and sealed by the surety company. See Regulation Interpretations and Procedures for Social Rehabilitation Facilities, Section 81026 for more information on handling client money.

81026 SAFEGUARDS FOR CASH RESOURCES, PERSONAL PROPERTY, AND VALUABLES**81026**

(a)

POLICY

A licensee is not required to admit a client whose pre-admission appraisal indicates that the client is incapable of handling his or her own money. Likewise, a licensee is not required to retain a client whose incapability to handle money is not identified until after admission; the licensee may initiate removal, discharge or eviction proceedings as specified in California Code of Regulations, Title 22, Division 6, Chapter 2.

If a licensee chooses to admit or retain an individual whose need for money management has been identified, the licensee must meet that need directly or through outside resources. Outside resources may include a client's representative payee or authorized representative.

NOTE: Per California Code of Regulations, Title 22, Section 81026(c)(3)(A), a licensee may become a client's substitute payee for a Social Security and/or Supplementary Security Income/State Supplementary Payment if appointed by the Social Security Administration as a representative payee for the client. See Regulation Interpretations and Procedures for Social Rehabilitation Facilities, Section 81026(c) for detailed information.

81026 SAFEGUARDS FOR CASH RESOURCES, PERSONAL PROPERTY, AND VALUABLES (Continued)**81026****(b) POLICY**

If there is no representative payee, or no authorized representative who is willing to accept responsibility for managing a client's cash resources, personal property and valuables, the licensee is responsible under California Code of Regulations, Title 22, Section 81026(b) for handling and safeguarding the items above, and is subject to the commingling and bonding provisions of California Code of Regulations, Title 22, Sections 81025 and 81026.

The licensee may also handle a client's money if requested to do so by a client who is capable of handling his or her own funds, or by a client's representative payee or authorized representative. The licensee in this situation is also subject to the provisions of California Code of Regulations, Title 22, Sections 81025 and 81026.

In all cases, the Admission Agreement must document who has money management responsibility.

The intent of California Code of Regulations, Title 22, 81026(b) is to safeguard a client's cash resources, personal property and valuables that are entrusted to the care of the licensee. See Regulation Interpretations and Procedures for Social Rehabilitation Facilities, Section 81026(c) through (n).

Handling of a Client's Cash Resources

"Handling" of a client's cash resources occurs if the licensee does any of the following:

1. Is appointed by the Social Security Administration as representative payee to manage a client's Supplementary Security Income/State Supplementary Payment and/or Social Security check.

NOTE: Appointed licensees are permitted to make expenditures from a client's cash resources for any basic services specified in these regulations, or for any basic services identified in a contract/Admissions Agreement between a client and license. See Regulation Interpretations and Procedures for Social Rehabilitation Facilities, Section 81026(c) and (f) and California Code of Regulations, Title 22, Section 81026(c) and (f) for details.

2. Takes a client's signed check to the bank and returns the personal and incidental amount in cash to the client.
3. Keeps a portion of the client's money on the facility premises for disbursement when the client so requests.

81026 SAFEGUARDS FOR CASH RESOURCES, PERSONAL PROPERTY, AND VALUABLES (Continued)**81026**

4. Maintains the client's money in a bank, credit union, or savings and loan account.
5. Makes purchases for the client at the direction of the client, client's representative payee, authorized representative as defined in California Code of Regulations, Title 22, Section 81001(a)(6), or other designated person. The licensee must document this in the client's Admission Agreement.

The licensee is subject to the commingling prohibitions, and the bonding and safeguarding requirements of California Code of Regulations, Title 22, Sections 81025 through 81026.

(c)(3)(A)**POLICY**

California Code of Regulations, Title 22, Section 81026(c)(3)(A) and Section 81026(f)(1) state that a licensee may become the substitute payee for Supplementary Security Income/State Supplementary Payment and/or Social Security if appointed by the Social Security Administration as a representative payee for the client.

All other bonding, safeguarding and accountability provisions in California Code of Regulations, Title 22, Sections 81025 and 81026 must be followed by licensee-payees since acting as a payee includes handling of client monies.

Licensee-payees must meet the following State guidelines in handling the client's Supplementary Security Income/State Supplementary Payment and/or Social Security benefits:

STATE GUIDELINES

1. The client's record must contain the document from the Social Security Administration appointing, or terminating the appointment of, the licensee as payee.
2. The Admission Agreement must indicate if the licensee has been appointed as payee.
3. Personal and incidental money must be protected as currently required.
4. To properly account for the use of Supplementary Security Income/State Supplementary Payment and/or Social Security benefits the payee has received, the payee must:

81026 SAFEGUARDS FOR CASH RESOURCES, PERSONAL PROPERTY, AND VALUABLES (Continued)**81026**

- a. Meet the ledger accounting requirements contained in California Code of Regulations, Title 22, Section 81026(h). The full benefit allowances received are to be posted to the ledger as income. The amounts paid to the licensee-payee for services are to be itemized separately as amounts disbursed. The remaining balance constitutes cash resources of the client and is to be accounted for in the normal manner.

Licensee-payees will also be required by the Social Security Administration to follow federal regulations. Some of these regulations are highlighted below:

FEDERAL REQUIREMENTS

1. Licensees are not permitted to charge a Supplementary Security Income/State Supplementary Payment or Social Security beneficiary for acting as his or her payee.
2. In managing a client's Supplementary Security Income/State Supplementary Payment and/or Social Security benefit, the payee must attend to:
 - a. The client's current maintenance (room, board, care and supervision, and personal & incidental needs identified by the payee and the client), and
 - b. The client's reasonably foreseeable needs, which are typically personal in nature (for example, a winter coat or other seasonal clothing, holiday travel to visit relatives, medical needs not covered by Medi-Cal or Medicare, etc.).

Benefits not needed for current maintenance or reasonably foreseeable needs must be invested in an interest or dividend paying account in a bank, trust company, credit union, or savings and loan association which is insured under either federal or State law, or in U.S. Savings Bonds. Details of how accounts are to be held are contained in item 4 below.

3. Unlike clients who receive a Supplementary Security Income/State Supplementary Payment check, clients who receive only Social Security do not have a specific portion of their income that is protected for personal and incidental needs. The payee is required by federal regulations to attend to the personal needs of the beneficiary, and the payee's use of the Social Security benefit is subject to monitoring by Social Security Administration.

81026 SAFEGUARDS FOR CASH RESOURCES, PERSONAL PROPERTY, AND VALUABLES (Continued)**81026**

4. Any Supplementary Security Income/State Supplementary Payment or Social Security funds that are not needed for current maintenance or reasonably foreseeable needs must be invested for the client when they exceed \$150. These funds must be placed in an interest or dividend paying checking or savings account in a bank, trust company, credit union, or savings and loan association insured under either federal or State law, or in U.S. Savings Bonds. Checking and savings accounts must show clearly that the payee has only a fiduciary, and not a personal interest in the funds. Interest paid on the account belongs to the client. Two recommended account titles are:

_____(Payee's name), representative payee for
_____(client's name).

or

_____(Client's name) by (payee's name), representative payee.

5. If the payee is changed by Social Security Administration, the payee who has kept or invested benefits for a client must transfer those funds, and the interest earned from those funds, to the successor payee, or to Social Security Administration, as specified by Social Security Administration. The client's record must contain the document from Social Security Administration indicating the payee change.

(c)

PROCEDURE**When the Payee Fails to Meet the Guidelines or is Suspected of Misusing the Benefits**

The State guidelines detailed above were issued in an all-licensee letter in January 1993. The Licensing Program Analyst should verify that the licensee-payee is observing the guidelines. If the Licensing Program Analyst determines the licensee-payee is willfully violating the State guidelines, the Licensing Program Analyst should report the situation to the Audit Section of Community Care Licensing Division.

The federal requirements noted above were also contained in the all-licensee letter. While the Licensing Program Analyst is not responsible for monitoring the payee's compliance with the federal requirements, it is appropriate for the Licensing Program Analyst to notify Social Security Administration and the Audit Section of Community Care Licensing Division if he or she suspects that the licensee-payee is not following those requirements.

81026 SAFEGUARDS FOR CASH RESOURCES, PERSONAL PROPERTY, AND VALUABLES (Continued)**81026**

To determine the nearest Social Security Administration office, look in the local phone book under "United States Government Offices, Health and Human Services Department, Social Security Administration" or visit the official Social Security Administration website at: <http://www.ssa.gov/>. The appropriate contact person at Social Security Administration is the Title XVI Supplementary Security Income Claims Representative for cases involving Supplementary Security Income/State Supplementary Payment monies only. For cases involving only Social Security or both Social Security and Supplementary Security Income/State Supplementary Payment, the contact person is the Title II (Social Security) Claims Representative. (Claims representatives in some small Social Security Administration offices may routinely handle both types of cases.) The Licensing Program Analyst should be prepared to give the Social Security Administration contact person the client's social security number, if it is available. If the nearest Social Security Administration office does not handle that client's case, they will refer it to the correct Social Security Administration office. The Licensing Program Analyst should document the name and telephone number of the Social Security Administration contact, and the action Social Security Administration indicates it will take.

The Social Security Administration has the responsibility to investigate complaints of misuse of benefits and will take action to change payee, seek restitution, or refer for prosecution, as appropriate. The Community Care Licensing Division also has a responsibility to investigate allegations of misuse of personal and incidental money and take Administrative Action when appropriate.

(e) POLICY

The requirement for safeguarding does not prohibit the licensee from maintaining client cash resources in one account.

PROCEDURE

See Regulation Interpretations and Procedures for Social Rehabilitation Facilities, Section 81026(i).

(f)(1) POLICY

See Regulation Interpretations and Procedures for Social Rehabilitation Facilities, Section 81026(c) for detailed information. Licensees who act as representative payee will necessarily make expenditures from the client's check(s) for basic services. However, the licensee is still prohibited by State law (Welfare and Institutions Code Section 11006.9) from obtaining any portion of the Supplementary Security Income/State Supplementary Payment personal and incidental needs allowance for the cost of basic services.

81026 SAFEGUARDS FOR CASH RESOURCES, PERSONAL PROPERTY, AND VALUABLES (Continued)**81026**

(f)(1)

PROCEDURE

See Regulation Interpretations and Procedures for Social Rehabilitation Facilities, Section 81026(c) for detailed instructions.

(h)(1)(B)

POLICY

The Record of Client's/Resident's Safeguarded Cash Resources (LIC 405) is available to applicants/licensees for accounting purposes. Licensees are responsible for safeguarding cash resources, personal property and valuables. However, a licensee is responsible to inventory personal property only when it has been entrusted to the licensee or facility staff for safekeeping. The Client/Resident Personal Property and Valuables (LIC 621), is available for this purpose.

When it is suspected that a licensee is not accounting for a client's cash resources in accordance with California Code of Regulations, Title 22, Section 81026, an audit (by the Audit Section) shall be requested. A request is normally made because there are clear reasons for doing so; i.e., a complaint from a third party, lack of records to establish personal and incidental balances or failure by a licensee to substantiate that the accounting of personal and incidental balances is adequate. The Evaluator Worksheet (LIC 423) is to assist the Licensing Program Analyst in determining if a request for an audit is appropriate when those types of clear indicators, as described above, are not apparent.

The licensee is responsible for entering the amount of money received and spent for a client on the Record of Client's/Resident's Safeguarded Cash Resources (LIC 405) or comparable ledger. The ledger must indicate source of funds: (name of bank and account number), explanation (deposit or withdrawal) amount (of deposit or withdrawal) and the new balance. The Record of Client's/Resident's Safeguarded Cash Resources (LIC 405) is designed to show the balance of monies to be accounted for and safeguarded. Individual transactions of a savings account or checking account would not be itemized on the ledger unless they reflected a change to the balance of monies being accounted for.

(h)(1)(B)

PROCEDURE

During the inspection, the Licensing Program Analyst should review the individual accounts of clients to verify proper recording of deposits, withdrawals and balances, and determine that the Surety Bond (LIC 402) adequately covers the amount of cash maintained in the facility including cash resources entrusted to the licensee and deposited in a bank, savings and loan or credit union as specified in California Code of Regulations, Title 22, Sections 81025 and 81026(i).

81026 SAFEGUARDS FOR CASH RESOURCES, PERSONAL PROPERTY, AND VALUABLES (Continued)**81026**

(h)(1)(C)

POLICY

The Record of Client's/Resident's Safeguarded Cash Resources (LIC 405) and Client/Resident Personal Property and Valuables (LIC 621) are available for this purpose.

(i)

POLICY

Licensees who handle client money shall account for all interest earned from a client's checking or savings account. Any interest earned on client money belongs to the client. However, for clients who are not on Supplementary Security Income/State Supplementary Payment, a reasonable amount can be charged for this service. This service is considered a basic, not an optional service, and an "extra" charge cannot be made for Supplementary Security Income/State Supplementary Payment recipients. Additionally, the charge must be agreed to in the Admission Agreement.

The licensee, not the bank, is responsible for designating the account as client money on the passbook. This is not a joint tenant or trustee account.

(m)(1)

PROCEDURE

See California Code of Regulations, Title 22, Sections 81034(a)(2) and 81026(i).

(m)(1)(A)

PROCEDURE

During the application process for change of ownership, if any questions arise regarding the accounting of client cash resources, personal property and valuables, the Licensing Program Analyst should review the Record of Client's/Resident's Safeguarded Cash Resources (LIC 405) and Client/Resident Personal Property and Valuables (LIC 621) or comparable forms to ascertain that the accounting by the licensee is correct. The Licensing Program Analyst should ensure that the Record of Client's Cash Resources for Change of Licensee (LIC 424) is submitted to the licensing agency.

(m)(2)

POLICY

The Accounting Record for a Change of Licensee (LIC 424) specified above meets this requirement.

(n)(2)

POLICY

The Record of Client's/Resident's Safeguarded Cash Resources (LIC 405) and Client/Resident Personal Property and Valuables (LIC 621) are available to licensees to maintain required records.

81027 INITIAL APPLICATION REVIEW**81027****(b)(1) POLICY**

An application which has been withdrawn shall not be considered a denial.

PROCEDURE

See Regulation Interpretations and Procedures for Social Rehabilitation Facilities Section 81029.

(c) POLICY

The two-year “cease review” requirement does not apply if an individual, who was previously a member of a corporation whose Community Care Licensing Division license was revoked, files a new application. However, if it can be proven that the individual was party to the reasons the corporation’s license was revoked, there may be basis for denial of the application.

PROCEDURE

Refer to Regulation Interpretations and Procedures for Social Rehabilitation Facilities Section 81018(d)(10).

81028 CAPACITY DETERMINATION**81028****(c)(1) POLICY**

The licensing agency must evaluate each situation and make a capacity determination considering, in part, the presence of other members of the household who reside at the facility.

If it appears that other household members require a significant amount of care and supervision, this may reduce the ability of the licensee to provide care to the requested number or maximum number of community care clients. Similarly, the presence of other appropriately qualified household members may enhance the ability of the licensee to provide care and supervision if these members assist in the provision of care.

The decision to reduce licensed capacity (from the requested or maximum number allowed) is based on the care needs of other household members. These needs are reflected by their mental and physical level of functioning, relative to other persons of the same age, and their dependence on the licensee for care and supervision.

Licensing agencies shall enforce the appropriate physical plant regulations established for the specific category, to ensure adequate accommodations exist for all people who will reside in the facility. If adequate accommodations exist for all household members and no household member has special or unusual care needs, they have no impact on the capacity determination.

81028 CAPACITY DETERMINATION (Continued)**81028**

(c)(1)

POLICY (Continued)

If other members of the household have unusual or special needs, then a capacity reduction should be considered. As a general rule, the capacity should be reduced by one for every household member whose special needs require care in an amount similar to that required by other community care residents with similar special needs. For example, a developmentally disabled individual may reduce the licensed capacity by one.

PROCEDURE

Obtain information about the other household members who reside at the facility. This information shall be broken down by:

1. Age, relationship to licensee.
2. Physical and mental level of functioning, if these individuals have special needs.
3. Based on "2" above, a brief description of any special or unusual care needs.

For existing licensees, this information shall be obtained or updated at time of renewal. For applicants, this information shall be obtained at time of application and updated at time of renewal.

All decisions to reduce licensed capacity for existing licensees shall be approved by the Regional Office Manager and shall be properly documented and supported in the facility's files. This decision should also be shared with any placement agencies involved.

Inform the licensee, in writing, of the reasons why a reduced capacity was determined to be necessary. For existing licensees, a reasonable time period shall be provided if relocation of clients is necessary.

If an applicant or licensee does not voluntarily reduce their license capacity, deny their application. If an application is denied and the licensee appeals this action, request a Temporary Suspension Order if the licensee's failure to reduce the capacity is significant enough to jeopardize the clients' health and safety (e.g., a requested capacity reduction of one may not jeopardize the clients' health or safety). For more information, refer to California Code of Regulations, Title 22, Section 81042.

(f)(2)

POLICY

When restricted to specific clients, the names of those clients are confidential and shall not be printed on the license. The license shall indicate "Restricted to specified clients".

PROCEDURE

Complete Confidential Names (LIC 811). Inform licensee, in writing, of the reason(s) for the restriction, referring to the client(s) by number and enclose a copy of Confidential Names (LIC 811). Instruct clerk to file the letter in the public section of the facility file and Confidential Names (LIC 811) in the confidential section.

81029 WITHDRAWAL OF APPLICATION**81029****(a)(1) POLICY**

The applicant has the right to withdraw an application any time prior to the issuance of a license. The withdrawal of an application shall not be considered a denial. However, the withdrawal of an application shall not deprive the department of its authority to institute or continue a proceeding to deny an application, unless the department has consented to the withdrawal in writing.

If the licensing agency gives consent to a withdrawal, administrative action cannot be taken. Therefore, written consent should not be given in situations where application denial is intended or pending. Additionally, the withdrawal of an application is not appropriate in situations where the application has already been acted upon (denied or approved).

PROCEDURE

If the licensing agency is notified that an applicant is no longer interested in obtaining a license and wishes to withdraw his/her application, confirm in writing the applicant's intent to withdraw the application and give consent to the withdrawal, unless the licensing agency is in the process of denying the application. If the licensing agency is in the process of denying the application, continue the denial procedure and do not consent to the withdrawal of the application.

1. If a denial action is pending, send the following notification:
"We acknowledge receipt of your request to withdraw your community care license application. This acknowledgment is not a consent to the withdrawal of your license application and does not deprive the department of its authority to take action to deny your application."
2. If denial action is not pending, send the following:
"We have received your request to withdraw your community care license application and do hereby consent to the withdrawal. If you wish to obtain a community care license in the future, you must reapply for a license."

Document in the facility case file the reason for consenting or not consenting to the withdrawal.

81030 PROVISIONAL LICENSE**81030****(f) POLICY**

Issuing a provisional license is a discretionary option available to the licensing agency during urgency conditions when denying the application for initial license would be inappropriate. Thus, provisional licenses are not issued “upon request” of the applicant. Nor is there an application process for issuance of provisional licenses, or an appeal procedure if an applicant requests a provisional license and is not given one. The applicant does have appeal recourse to the denial of the application for the initial licensure.

Provisional licenses are not for the purpose of “expediting” the licensing process and are not to be used as “probationary licenses.” An applicant must comply with the criminal record and fire clearance requirements in order to meet the substantial compliance criteria. To the extent that waiting for these clearances “holds up” the licensing approval process, a provisional license cannot be used to remedy this situation.

PROCEDURE

When an application for a provisional license is approved, route it to the clerk with an LIS Input Sheet (LIC 9104) for typing and logging. Prepare a cover letter that describes the conditions of the provisional license and states deficiencies to be corrected before a regular license can be granted. The cover letter should conclude with the statement that unless all conditions are fulfilled, a regular license will not be granted. Supervisory review of the provisional license and cover letter is required before being mailed.

If, during the term of a provisional license, health and safety risks arise:

1. Issue a Notification of Initial Application Denial (LIC 192) and specify in that letter the date by which the facility must cease operations, taking into consideration any client relocation which may be necessary. See Regulation Interpretations and Procedures for Social Rehabilitation Facilities Section 81040.
2. After the effective date in the Notification of Initial Application Denial (LIC 192), if the facility continues operation, issue a Notice of Operation in Violation of Law (LIC 195). See Regulation Interpretations and Procedures for Social Rehabilitation Facilities Section 81006.

Before the termination of a provisional license, the licensing agency shall (1) conduct a review to determine whether all licensing requirements are met and (2) deny or approve the application for a license.

81031 ISSUANCE OF LICENSE**81031****(a) POLICY**

A facility's failure to comply with a local ordinance or deed restriction shall not constitute grounds for denial of an application, denial of renewal or revocation of a license unless the reasons for noncompliance are also violations of licensing laws and regulations.

PROCEDURE

1. If a city, county, landlord, etc., notifies a licensing agency that an applicant /licensee is failing to meet the terms of a local ordinance, or deed restriction, advise such person(s) that if the facility meets the requirements of California Code of Regulations, Title 22, and the Community Care Facility Act, the applicant/licensee will be issued a license to operate a community care facility.

They should further be advised that any administrative/legal action or recourse as it pertains to nonconformance with local ordinances or deed restrictions would have to be initiated and carried out by the city, county, landlord, etc., in question.
2. If such noncompliance is determined to be in violation of licensing laws and regulations, advise the applicant/licensee of the violation and take appropriate legal/administrative action, i.e., denial, issuance of civil penalties, etc. See Regulation Interpretations and Procedures for Social Rehabilitation Facilities Sections 81040 through 81042.
3. If it is discovered that a city, county, landlord, etc., has adopted or imposed a local ordinance or deed restriction which is in violation of Health and Safety Code Sections 1566.2 or 1566.3, the licensing agency shall not take legal or administrative action against the city, county, landlord, etc., on an applicant's/licensee's behalf. In such cases, the applicant/licensee shall be advised that if they meet all of the provisions of California Code of Regulations, Title 22, and conform with State laws, they shall receive a license.

(a) PROCEDURE

Determine, as the result of the site inspection, that the facility and licensee meet licensing requirements. Review the entire folder and make final decision on the application. Forward the folder to the clerk with a Transmittal for Processing (LIC 907), recommending licensure and detailing limitations and the applicant's preferences. The clerk prepares the Application for a Community Care Facility or Residential Care Facility for the Elderly License (LIC 200) and forwards the folder to the supervisor for review. If recommendation for licensure is approved, the supervisor signs off the above forms and forwards to the clerk for recording and mailing.

If recommendation for licensure is not approved, the supervisor will discuss the case with you and action to be taken. It is important not to advise the applicant of a licensure decision prior to supervisory approval.

81034 SUBMISSION OF NEW APPLICATION**81034**

(a)(2)(C)

POLICY

If there has been no change in the ownership of the corporation, a new application is not required solely because there is a change in the Chief Executive Officer of a corporation, even if the Chief Executive Officer signed the application. However, the Administrative Organization (LIC 309), Request for Live Scan Service – Community Care Licensing Division (LIC 9163), Criminal Record Statement (LIC 508) and any other licensing forms or documents which require updating due to the change must be submitted.

PROCEDURE

See California Code of Regulations, Title 22, Section 81026(m).

(a)(5)

POLICY

A permanent change in any client from ambulatory to nonambulatory status does not require a new application if there is a nonambulatory fire-cleared room available in the facility.

Although this requirement for submitting a new application is linked to a “permanent” change in a client’s ambulatory status, this does not permit “temporarily” nonambulatory clients to use rooms or areas restricted to ambulatory clients.

PROCEDURE

Refer to California Code of Regulations, Title 22, Sections 81001(n)(2) and 81010.

81042 REVOCATION OR SUSPENSION OF LICENSE**81042**

See Reference Material, Enforcement Actions, Sections 1-1200 through 1-1215.

81043 LICENSEE/APPLICANT COMPLAINTS**81043****PROCEDURE**

For licensee/applicant rights, see Reference Material for Application, Section 3-0950; Reference Material for Facility Evaluation/Visit, Section 3-4200; and the Applicant/Licensee Rights (LIC 9058).

81068.5 EVICTION PROCEDURES**81068.5****(d) POLICY**

Sending the 30-day or 3-day written notice of eviction through electronic transmission means sending the notice by email or other secure electronic program.

(e) POLICY

Sending the 30-day or 3-day written notice of eviction through electronic transmission means sending the notice by email or other secure electronic program.